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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/057,463

01/24/2002

Allan Herrod

554B

1029

7590

08/17/2004

SYMBOL TECHNOLOGIES, INC  
ONE SYMBOL PLAZA  
MS/A6  
HOLTSVILLE, NY 11742

EXAMINER

TRAN, CONGVAN

ART UNIT

PAPER NUMBER

2683

8

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/057,463

Applicant(s)

HERROD ET AL.

Examiner

CongVan Tran

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) 1-75, 93 and 94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 75-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This office action is in response to amendment filed on Jun. 07, 2004.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 75-92 have been considered but are moot in view of the new ground(s) of rejection.
3. Newly submitted claims 93-94 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 93-94 drawn to portable terminal while claims 75-92 drawn to a computer terminal with an optical reader.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 93-94 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Kyuno et al. (5,751,583).

Regarding claims 75, 77-78, 86-87 Kyuno discloses a embroidery data processing method comprising: a computer terminal with an optical reader arranged a data input query from customer using the terminal and relating to a product located in a product access zone (see fig.1 elements 1, 12 and its description); a display for displaying an image of a product to be accessed by user (see fig.1, element 7a and its description).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 76, 80, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyuno et al. (5,751,583) in view of Durbin et al. (6,039,258).

Regarding claim 76, Kyuno discloses all the subject matters described in rejected claim 75, except for the optical reader is a bar code reader. However, Durbin further discloses a hand-held portable data collection terminal system comprising: an optical reader is a bar code reader which functions to generate the query by scanning a bar code symbol (see fig.6, element 100 and its description). Thus, it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to use Durbin's bar code reader to the Kyuno's system in order to improve the use of scanner device.

Regarding claims 80, 85, Durbin further discloses the display is included in the housing terminal (see fig.6 and its description)

Regarding claim 81-84, 92, Durbin further discloses the query is relayed to a server and the terminal receives responsive data server, using wireless communication (see col.4, lines 24-49).

8. Claim 79, 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyuno et al. (5,751,583) in view of Yamamoto (5,991,276).

Regarding claim 79, 88, Kyuno discloses all the subject matters described in rejected claims 75, 77, except for scaling the data to the size of display.

However, Yamamoto discloses a videoconference system comprising image scanner for scaling the data to the size of display (see fig.4, element 16, 19 and its description). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Yamamoto's scaling image in Kyuno's system in order to improve the use of the optical reader and to make the images fit to the screen of the computer terminal.

9. Claim 89-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyuno et al. (5,751,583) in view of Soltesz (5,756,978).

Regarding claims 89-90, Kyuno discloses all the subject matters described in rejected claims 75, 77, except for identifying user to the system via a magnetic card wipe slot. However, Soltesz discloses a modular optical memory card image displays point on sale terminal comprising identifying user to the system via a

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magnetic card wipe slot (see fig.1, element 26 and its description). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the Soltesz's identifying user in Kyuno's system in order to improve the use of the optical reader for identifying the person.

10. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kyuno et al. (5,751,583) in view of Copland (5,717,430).

Regarding claims 91, Kyuno discloses all the subject matters described in rejected claims 75, 77, except for speaker and voice synthesizer. However, Copland discloses computer controls product including optical scanner, speaker and voice synthesizer (see col.1, lines 18-27). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the Copland's speaker and voice synthesizer in Kyuno's system in order to improve the use of the optical reader.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 703-305-4024. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CONGVAN TRAN  
PRIMARY EXAMINER

CongVan Tran  
Examiner  
Art Unit 2683

CT  
Aug. 10, 2004.